

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION
C.A. No. 1:13-cv-277**

MONESHA STATON,)
vs. Plaintiff,)
NORTH STATE ACCEPTANCE, LLC, and)
EQUIFAX INFORMATION SERVICES,)
LLC, Defendants.)

REPLY IN SUPPORT OF
MOTION TO STRIKE
AFFIRMATIVE DEFENSES OF
DEFENDANT NORTH STATE
ACCEPTANCE, LLC

TO THE HONORABLE UNITED STATES MAGISTRATE JUDGE:

NOW COMES Plaintiff MONESHA STATON, by and through counsel, and files this Reply in Support of her Motion to Strike the affirmative defenses numbered 1, 2, 3, 4, and 6 of Defendant NORTH STATE ACCEPTANCE, LLC's Answer (Dkt. #11) pursuant to FED. R. Civ. P. 12(f), and Local Rules 7.2 and 7.3, and states that she rests upon the arguments set forth in her Brief in Support of Motion to Strike Affirmative Defenses (Dkt. #18). Plaintiff also states the following in reply to Defendant's Response to her motion:

1. Defendant implies that Plaintiff has concealed from the Court that she refinanced the vehicle loan. See Dkt. #23, 5 n2 and Dkt. #23, 9. Plaintiff's Complaint was signed on February 18, 2013. As of that date, to counsel's knowledge, Plaintiff had not refinanced the loan and was still a North State customer. There was no attempt to deceive the Court.
2. Defendant fails in its response to explain how its equitable defenses of waiver and equitable estoppel are relevant where Plaintiff has made no claims in equity. Either

Defendant complied with its obligations under the Fair Credit Reporting Act (“FCRA”), or it did not. There are no equitable defenses to the FCRA.

3. Defendant attempts to flesh out its defense of accord and satisfaction by referring both to its Brief on the Motion to Dismiss and by making additional factual allegations. See Dkt. #23, 5. Defendant appears to believe that Plaintiff somehow released her FCRA claims at some point in the past. Nevertheless, Defendant did not include all of those factual allegations in its Answer. Its answer states merely “Accord and satisfaction.” Defendant should move to amend its Answer to include the allegations included in its briefs if it wishes to preserve this defense.
4. Defendant appears to admit that the defense of set-off is not appropriate. Dkt. #23, 9.
WHEREFORE, Plaintiff Monesha Staton moves this Court to strike Defendant’s affirmative defenses numbered 1, 2, 3, 4, and 6 pursuant to FED. R. CIV. P. 12(f), and for such other and further relief to which she may be entitled.

This the 10th day of June, 2013.

Respectfully submitted,

By: /s/ Suzanne Begnoche
SUZANNE BEGNOCHE
Suzanne Begnoche, Attorney at Law
Attorney for Plaintiff
NCSB # 35158
312 West Franklin Street
Chapel Hill, NC 27516
begnoche@mindspring.com
Telephone: (919) 960-6108
Facsimile: (919) 500-5289

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_____)

CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed the **Reply in Support of Motion to Strike Affirmative Defenses of Defendant North State Acceptance, LLC** with the Clerk of the Court using the CM/ECF system, which will send a copy to Defendants' attorneys:

Kendall Carter, Esq.
Attorney for Equifax
King & Spalding LLP
1180 Peachtree Street, NE
Atlanta, GA 30309-3521
kcartier@kslaw.com

David G. Guidry, Esq.
Attorney for Equifax
King & Spalding LLP
100 North Tryon Street, Suite 3900
Charlotte, North Carolina 28202
dguidry@kslaw.com

Robert D. Church, Esq.
Attorney for North State Acceptance, LLC
8801 Fast Park Drive, Suite 301
Raleigh, NC 27617
robertchurch@live.com

THIS the 10th day of June, 2013.

Respectfully submitted by: /s/ Suzanne Begnoche
Suzanne Begnoche, Attorney at Law
Attorney for Plaintiff
NCSB # 35158
312 West Franklin Street
Chapel Hill, NC 27516
Telephone: (919) 960-6108
Facsimile: (919) 500-5289
begnoche@mindspring.com